

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 21-2302V

DANIEL WOLIN,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: August 31, 2023

Rhonda Lorenz-Pignato, Shannon Law Group, P.C., Woodridge, IL, for Petitioner.

Alexa Roggenkamp, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On December 17, 2021, Daniel Wolin filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleged that he suffered a right shoulder injury related to vaccine administration (“SIRVA”), a defined Table injury, or in the alternative a causation-in-fact shoulder injury, after receiving an influenza (“flu”) vaccine on November 11, 2020. Petition at 1, ¶¶ 2, 68-69. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On August 30, 2023, I issued a ruling on entitlement, finding Petitioner entitled to compensation for his right axillary neuropathy, a non-Table or caused-in-fact injury. On August 30, 2023, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$82,000.00, representing compensation for his

¹ Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims’ website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

actual pain and suffering. Proffer at 1. In the Proffer, Respondent represented that Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$82,000.00, representing compensation for his actual pain and suffering in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under Section 15(a).

The Clerk of Court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

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ECF

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On December 17, 2021, Daniel Wolin (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), alleging that he suffered a Table shoulder injury related to vaccine administration (“SIRVA”), as the result of an influenza (“flu”) vaccination received on November 11, 2020, and alleged, in the alternative, that the flu vaccine caused-in-fact his right shoulder condition. Petition at 1, 28. On August 18, 2023, the Secretary of Health and Human Services (“respondent”) filed a Rule 4(c) Report indicating that this case is appropriate for compensation as petitioner’s flu vaccination caused a right axillary neuropathy injury.¹ ECF No. 28. On August 30, 2023, the Chief Special Master issued a Ruling on Entitlement finding petitioner entitled to compensation. ECF No. 29.

¹ In the same pleading, respondent stated that petitioner is not entitled to compensation for his claimed right SIRVA. Accordingly, this proffer of damages does not include compensation for petitioner’s claimed right SIRVA.

I. Items of Compensation

Pain and Suffering

Respondent proffers that Daniel Wolin should be awarded \$82,000.00 in actual pain and suffering. *See* 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees. This amounts represent all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

II. Form of the Award

Petitioner is a competent adult. Evidence of guardianship is not required in this case. Respondent recommends that the compensation provided to petitioner be made as a lump sum payment of \$82,000.00, in the form of a check payable to petitioner.²

Respectfully submitted,

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² Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future lost earnings and future pain and suffering.

/s/ Alexa Roggenkamp
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